

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 4945 (S/S) / 2001

(Recall Application No. 2932 of 2006)

Javed Ahmed S/o Sri Mohibulla
R/o 140 Naya Pura, Stenley Road,
Allahabad.

.....Petitioner

Versus

1. State of Uttaranchal through the Principal Secretary, Agricultural Department, Dehradun.
2. The Director, Rajya Krishi Utpadak Mandi Parishad, Dehradun.
3. The Deputy Director (Administration), Rajya Krishi Utpadak Mandi Parishad, Dehradun.

.....Respondent

24.04.2006

*Ms. Seema Sirohi, learned counsel for the petitioner,
Learned Standing Counsel for the respondent No. 1 and
Sri J.C. Belwal, Learned Counsel for the respondent No. 2 & 3.*

Hon'ble Rajesh Tandon, J.

Heard Ms. Seema Sirohi, counsel for the petitioner, Standing Counsel for the respondent No. 1 and Sri J.C. Belwal, Counsel for the respondent No. 2 & 3.

By the present writ petition, the petitioner has prayed for a writ of mandamus commanding the respondents to treat the petitioner in continuous service from his initial dated of appointment.

Briefly stated according the case of the petitioner, he was appointed on the post of Mandi Abhikakshak on adhoc basis. The petitioner had continued in service since 03.08.1996 and he was terminated by verbal order w.e.f. 15.08.1998. An interim order was passed on 23.11.2001 that petitioner shall be allowed to continue the work until further orders of the Court.

Counsel for the respondents has filed the Counter affidavit stating therein that the Mandi Parishad Uttar Pradesh Mandi Parishad issued circulars for regularization the services of the persons who were employed in the Mandi Samities from 1991 to 1996. As the Petitioner was never in the employment of Mandi Samiti, Hardwar Union and was not working in the Mandi Samiti

Hardwar Union in any capacity in the year 1996, he is not entitled to take any benefit or circular dated 28.10.1996 issued by the Rajya Krishi Mandi Parishad Uttar Pradesh.

The petitioner has further submitted that he has preferred a representation against the oral termination of service to the Principal Secretary. Agriculture Department U.P. Lucknow on 06.11.2000. He has also submitted that the oral termination of service of the petition is, arbitrary and malafide and is against the provisions of Section 6 N of the U.P. Industrial Disputes Act 1947 as the petitioner has completed 240 days service Preceding before the date of termination of service.

No interference can be made under Article 227 of the Constitution of India. Liberty is also given to approach the Labour Court if the petitioner is so deserved. The respondents are directed to decide the representation within a period of six weeks. However, liberty is given to file a fresh representation within a period of two weeks from the date of production of certified copy of this order.

Subject to the aforesaid observations, writ petition is disposed of.

24.04.2006
Jain

(Rajesh Tandon, J.)